

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION

JOE HAND PROMOTIONS, INC.,	§	No. 5:22-CV-1388-DAE
	§	
Plaintiff,	§	
	§	
vs.	§	
	§	
JESSICA AGUIRRE, Individually,	§	
d/b/a Otra Vez, and d/b/a Otra Vez	§	
Sports Bar,	§	
	§	
Defendant.	§	
_____	§	

ORDER ADOPTING REPORT AND RECOMMENDATION; GRANTING IN  
PART AND DENYING IN PART MOTION FOR FINAL DEFAULT  
JUDGMENT

Before the Court is a Report and Recommendation filed by U.S. Magistrate Judge Henry J. Bemporad. (Dkt. # 13.) On April 3, 2023, the Court referred Plaintiff Joe Hand Promotions, Inc.’s Motion for Final Default Judgment to Magistrate Judge Bemporad. Magistrate Judge Bemporad filed his Report and Recommendation on July 11, 2023. Objections to the Report and Recommendation were due within 14 days after being served with a copy. Neither party filed any objections to the Report and Recommendation.

BACKGROUND

This case is an “anti-piracy” action under the Federal Communications Act of 1934 (“Communications Act”), as amended, 47 U.S.C.

§§ 553 or 605. Plaintiff's suit alleges that Defendant illegally and without authorization intercepted or received the closed-circuit telecast of the January 18, 2020, broadcast of "Ultimate Fighting Championship® 246: Conor McGregor v. Donald 'Cowboy' Cerrone" (the "Event"), and exhibited the Event in Defendant's establishment without entering into a contract with Plaintiff to display the Event. (Dkt. # 1.) Plaintiff alleges that it was the holder of the exclusive commercial distribution rights to the Event. (Id.)

After properly serving Defendant, Defendant failed to answer or otherwise respond within the time required by the Federal Rules of Civil Procedure. On Plaintiff's request, the Clerk issued entry of default against Defendant on February 15, 2023. (Dkts. ## 6, 7.) Plaintiff now moves the Court for entry of final default judgment against Defendant. (Dkt. # 8.) On July 11, 2023, Magistrate Judge Bemporad entered a Report and Recommendation on the motion for default judgment, recommending that the Court grant in part and deny in part Plaintiff's motion. (Dkt. # 13.) No objections were filed.

### ANALYSIS

Where, as here, neither party objects to the Magistrate Judge's findings, the Court reviews the Report and Recommendation for clear error. United States v. Wilson, 864 F.2d 1219, 1221 (5th Cir. 1989).

After careful consideration, the Court adopts the Magistrate Judge's Report and Recommendation. The Court finds that the Magistrate Judge's conclusion is correct that Defendant have not entered an appearance in this case or otherwise responded, and that "Defendant's failure to plead or otherwise defend constitutes a default," which "serves as an admission of the facts in the Complaint, and those facts are sufficient to establish a violation of the FCA." (Dkt. # 13 at 4.) Additionally, the Magistrate Judge's conclusion that Plaintiff demonstrated its entitlement to default judgment against Defendant and the calculation of damages are neither clearly erroneous nor contrary to law.

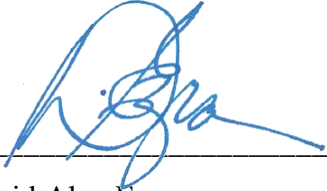
### CONCLUSION

Accordingly, for the reasons given, the Court **ADOPTS** the Magistrate Judge's Report and Recommendation (Dkt. # 13) as the opinion of the Court, and **GRANTS IN PART AND DENIES IN PART** Plaintiff's Motion for Final Default Judgment (Dkt. # 8). The Motion is **GRANTED** as to Plaintiff's request for damages, fees, and costs, as follows: (1) \$3,285 in statutory compensatory damages pursuant to 47 U.S.C. § 605(e)(3)(C)(i)(II); (2) \$3,285 in statutory enhanced damages pursuant to 47 U.S.C. § 605(e)(3)(C)(ii); (3) \$2,137.50 in reasonable attorneys' fees pursuant to 47 U.S.C. § 605(e)(3)(B)(iii); and (4) \$516 of costs. Defendants must also pay post-judgment interest, to be calculated and compounded pursuant to 28 U.S.C. § 1961, until the

judgment is paid in full. The Motion is **DENIED** as to Plaintiff's request for additional damages. The Clerk's Office is **INSTRUCTED** to **ENTER JUDGMENT** and **CLOSE THE CASE**.

**IT IS SO ORDERED.**

**DATED:** San Antonio, Texas, August 7, 2023.



---

David Alan Ezra  
Senior United States District Judge